

Secretary of State
Notice of Public Hearing to Adopt Rules

A public hearing will be held in the Governor's Large Conference Room, 2nd floor, State Capitol, Pierre, South Dakota, on April 20, 2004, at 8:30 a.m., to consider the adoption and amendment of proposed rules numbered: §§ 5:04:03:01, 5:04:03:02, 5:04:06:01, 5:04:06:02, 5:04:06:06 for amendment; 5:04:02:01, 5:04:02:02, 5:04:02:04, 5:04:02:05, 5:04:02:06 for repeal; and 5:04:02:07, 5:04:03:03 for adoption.

The effect of the rules will be to repeal standard form rules implemented prior to Revised Article 9 of the Uniform Commercial Code; repeal rules related to fees for copies of microfiche; repeal rules related to mainframe computer access to the central filing system; outline county requirements for the central recording of real property liens through Dakota Fast File; update the notary public forms to reflect the increased commission fee required by statute and update the address to which the form should be delivered; add a new form for notary public notification of change of seal and request to correct record; add transactions codes for county auditor and bypass to the file format for the county voter registration system; add a new recognized political party to the voter registration system; amend the length of the Social Security Number/Drivers License Number field in the voter registration system and mark it as a required field; create a new field name in the voter registration system requiring the State of drivers license issuance; amend the standardized file transmitted between the counties and the state voter registration system to reflect updates made to the file format fields and access provisions agreed to on the form for voter registration list requests.

The reason for adopting the proposed rules is to update administrative processes to reflect changes in statute, make amendments and clarifications to the voter registration system relating to requirements of the Help America Vote Act, a newly formed State political party and to clarify the access provisions for the voter registration list request form.

Persons interested in presenting data, opinions, and arguments for or against the proposed rules may do so by appearing in person at the hearing or by sending them to the Secretary of State, State Capitol, 500 East Capitol, Pierre, South Dakota 57501. Material sent by mail must reach the Secretary of State by April 30, 2004, to be considered.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Secretary of State at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number for making special arrangements is (605) 773-3537.

Copies of the proposed rules may be obtained without charge from:

Secretary of State
State Capitol
500 East Capitol
Pierre, South Dakota 57501-1234
<http://sdsos.gov/rulenotice.htm>

**ADMINISTRATIVE PROCEDURES ACT
FISCAL NOTE
Prepared by Submitting Agency**

	CODE	NAME
DEPARTMENT	3101	Secretary of State
DIVISION		
PROGRAM		

PROPOSED RULES §§ 5:04:03:01, 5:04:03:02, 5:04:06:01, 5:04:06:02, 5:04:06:06 for amendment; 5:04:02:01, 5:04:02:02, 5:04:02:04, 5:04:02:05, 5:04:02:06 for repeal; and 5:04:02:07, 5:04:03:03 for adoption.

Hearing Date: April 20, 2004

FISCAL NOTE SUMMARY:

List state agencies or local governmental subdivisions affected.

COST INCREASES (DECREASES)

State Agencies:	First-Year Impact	Continuous-Yearly Impact
Secretary of State	\$2000 for software development	NONE
TOTAL		
Local Subdivisions:		
Counties	\$1000 for software development	NONE
TOTAL		
Revenue Increases (Decreases) State & Local:		
NONE	NONE	NONE
TOTAL	\$3000	NONE

APPROVED  DATE: March 24, 2004
Signature Department Secretary or Board or Commission Chairman

ATTACH: Copy of proposed rules; separate sections for: 1) explanation of rules effect, i.e. what procedures, schedules, activities, etc. will change with its adoption 2) statistics used, and their source, 3) assumptions that were made to arrive at fiscal impact, 4) computations that were made.

ARTICLE 5:04

OFFICE OF THE SECRETARY OF STATE

Chapter

5:04:01	Federal tax liens, Repealed.
5:04:02	<u>Central filing system.</u>
5:04:03	<u>Notaries public.</u>
5:04:04	Uniform Commercial Code, revised Article 9.
5:04:05	Business trusts.
5:04:06	<u>Statewide voter registration file.</u>

CHAPTER 5:04:02

CENTRAL FILING SYSTEM

Section

5:04:02:01	Definitions. <u>Repealed.</u>
5:04:02:02	Standard forms. <u>Repealed.</u>
5:04:02:03	Repealed.
5:04:02:04	Fee for access to EFS master list. <u>Repealed.</u>
5:04:02:05	Fees for copies of master list. <u>Repealed.</u>
5:04:02:06	Fees for UCC computer access. <u>Repealed.</u>
5:04:02:07	<u>Requirements for central recording of real property liens.</u>

5:04:02:01. Definitions. ~~Terms used in this chapter have the following meanings:~~

~~—— (1) "Effective financing statement," "EFS," a document filed with the secretary of state that describes farm products subject to a security interest and that meets the requirements of subsection (c)(4) of section 1324 of the Food Security Act of 1985, Pub. L. No. 99-198 (effective December 23, 1986);~~

~~—— (2) "UCC," the uniform commercial code as provided in SDCL 57A. Repealed.~~

Source: 14 SDR 50, effective October 4, 1987.

~~—— **General Authority:** SDCL 57A-9-403, 57A-9-403.8, 57A-9-407.~~

~~—— **Law Implemented:** SDCL 57A-9-403, 57A-9-403.8, 57A-9-407.~~

5:04:02:02. Standard forms. ~~The standard form for filing all financing statements or effective financing statements, or both, is the UCC 1/EFS. The standard form for filing all amendments, continuation statements, assignments, partial releases, and terminations of financing statements or effective financing statements, or both, is the UCC 3/EFS. Minor deviations from the standard form may be approved by the secretary of state for use as a standard form. The UCC 1/EFS and UCC 3/EFS must be eight and one half inches by eleven inches, and the lower left corner must contain a blank area at least 13/16 inch high by two inches long. The forms must have content and layout as follows: Repealed.~~

Secretary of State
500 E. Capitol • Pierre, SD 57501-5070 • 605-773-4422

Fee \$ _____

Account # _____

NOTE: Type smaller than 8 point is not acceptable. This is an example of 8 point type.

**Social Security # or
Employer ID#**

Secured Party and Address

1.

2.

3.

4.

Mailing Address

This Financing Statement covers the following types (or items) of property: Describe real estate: *If collateral is crops, the crops described below are growing or are to be grown on, OR, if collateral is goods which are or are to become fixtures, the below goods are affixed or to be affixed to:*

Check (X) if covered: ☐ PROCEEDS of collateral are also covered. ☒ PRODUCTS of collateral are also covered.

Use the following spaces only for Farm Products requiring **EFFECTIVE FINANCING STATEMENT (EFS)**

FARM PRODUCT	CODE	YEAR	QUANTITY	COUNTY CODE	LOCATION IN COUNTY OR FURTHER DESCRIPTION
Pay proceeds to Debtor and Secured Party unless otherwise checked: <input type="checkbox"/> Secured Party only <input type="checkbox"/> Debtor only					

Number of Additional Sheets, if any: _____

Signature(s) of Debtor(s)

Signature of Secured Party

FOR TERMINATION ONLY:
To use Acknowledgement Copy as a Termination Statement, Secured Party must date and sign below:

Termination Statement dated _____ Signed _____

Signature of Secured Party

Secretary of State
500 E. Capitol • Pierre, SD 57501-5070 • 605-773-4422

For \$ \underline{\hspace{2cm}} \$

Account # _____

NOTE: Type smaller than 8 point is not acceptable. This is an example of 8 point type.

Debtor Name	Social Security # or Employer ID#	Secured Party and Address
	1.	
	2.	
	3.	
	4.	
Mailing Address		Assignee of Secured Party and Address

THIS STATEMENT REFERS TO ORIGINAL FINANCING STATEMENT NO. _____ (limited to one transaction per UCC.)

DATE _____ FILED WITH _____

<input type="checkbox"/> CONTINUATION The financing statement bearing the above file number is still effective. Must be signed by secured party for UCC 3; secured party and debtor for Effective Financing Statement. Fee: \$10 and \$2* *For each additional debtor name	<input type="checkbox"/> TERMINATION The secured party no longer claims a security interest under the financing statement bearing the above file number. Must be signed by secured party. Fee: None	<input checked="" type="checkbox"/> PARTIAL RELEASE The secured party releases the collateral described below from the financing statement bearing the above file number. Must be signed by secured party for UCC 3; secured party and debtor for Effective Financing Statement. Fee: \$10 and \$1* *For each additional debtor name	<input type="checkbox"/> ASSIGNMENT The secured party's rights in the property described below under the statement bearing the above file number have been assigned to the assignee whose name and address are listed above right. Must be signed by secured party for UCC 3; secured party and debtor for Effective Financing Statement. Fee: \$10 and \$1* *For each additional debtor name	<input type="checkbox"/> AMENDMENT The financing statement bearing the above file number is amended as set forth below. Must be signed by both debtor and secured party for UCC 3 and Effective Financing Statement. UCC3 secured party, signature party, and charging only the name or address of the secured party. Fee: \$10 and \$2* *For each additional debtor name
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This area is for the description of collateral, release, collateral, if assigned, or description of real estate, if necessary:

Check (X) if covered: ☐ PROCEEDS of collateral are also covered. ☐ PRODUCTS of collateral are also covered.

Use the following spaces only for Farm Products requiring EFFECTIVE FINANCING STATEMENT (EFS)

FARM PRODUCT	CODE	YEAR	QUANTITY	COUNTY CODE	LOCATION IN COUNTY OR FURTHER DESCRIPTION
Pay proceeds to Debtor and Secured Party unless otherwise checked: <input type="checkbox"/> Secured Party only <input type="checkbox"/> Debtor only					

Pay proceeds to Debtor and Secured Party unless otherwise checked: ☐ Secured Party only ☐ Debtor only

Filed with the Secretary of State as: UCC ☒ EFS ☐ BOTH ☐

Number of Additional Sheets, if any: _____

Signature of Secured Party

Signature(s) of Debtor(s)

LCC 3 Form
Revised 7/97

ORIGINAL - CENTRAL FILING SYSTEM

Source: 14 SDR 50, effective October 4, 1987; 23 SDR 228, effective July 2, 1997.

~~**General Authority:** SDCL 57A 9 403(5), 57A 9 404 to 57A 9 407.~~

~~—— Law Implemented: SDCL 57A-9-403(5), 57A-9-404 to 57A-9-407.~~

5:04:02:03. Filing fees. Repealed.

Source: 14 SDR 50, effective October 4, 1987; repealed, 23 SDR 228, effective July 2, 1997.

5:04:02:04. Fee for access to EFS master list. ~~To have computer access to the EFS master list or to request EFS master lists, the requester must be registered with the secretary of state. The annual registration fee for such access is \$50. Repealed.~~

Source: 14 SDR 50, effective October 4, 1987.

~~—— General Authority: SDCL 57A-9-403.8, 57A-9-407(3).~~

~~—— Law Implemented: SDCL 57A-9-403.8, 57A-9-407(3).~~

5:04:02:05. Fees for copies of statewide master list or specialized lists. ~~A statewide livestock master list on microfiche is free of charge to registrants. Crop microfiche master lists for up to 10 counties are free to each registrant. The fee for crop microfiche for additional counties is 25 cents per microfiche. The fee for specialized livestock microfiche for individual counties and specialized crop or livestock microfiche for individual products is \$5 per microfiche. The fee for master lists in paper form is 35 cents per printed page. Repealed.~~

Source: 14 SDR 50, effective October 4, 1987.

~~—— General Authority: SDCL 57A-9-403.8~~

~~—— Law Implemented: SDCL 57A-9-403.8.~~

5:04:02:06. Fees for UCC computer access. ~~To have computer access to the UCC file, a requester must register by the year with the secretary of state. The yearly registration fee is \$240. The requester is allowed 200 free transactions per registered month. A transaction is a computer entry stroke. The fee for additional transactions is ten cents per transaction. The requester must establish a prepaid account with the secretary of state from which the fees for additional transactions will be deducted. Repealed.~~

Source: 14 SDR 182, effective July 10, 1988.

~~—— General Authority: SDCL 57A-9-403.8, 57A-9-407(3).~~

~~—— Law Implemented: SDCL 57A-9-403.8, 57A-9-407(3).~~

5:04:02:07. Requirements for central recording of real property liens. Each county register of deeds shall notify the secretary of state of the email address to which all recordings pursuant SDCL 57A-9-501.2 shall be delivered. The register of deeds shall promptly notify the secretary of state of any change in the email address to which recordings pursuant SDCL 57A-9-501.2 shall be delivered.

General Authority: SDCL 57A-9-501.2.

Law Implemented: SDCL 57A-9-501.2.

CHAPTER 5:04:03

NOTARIES PUBLIC

Section

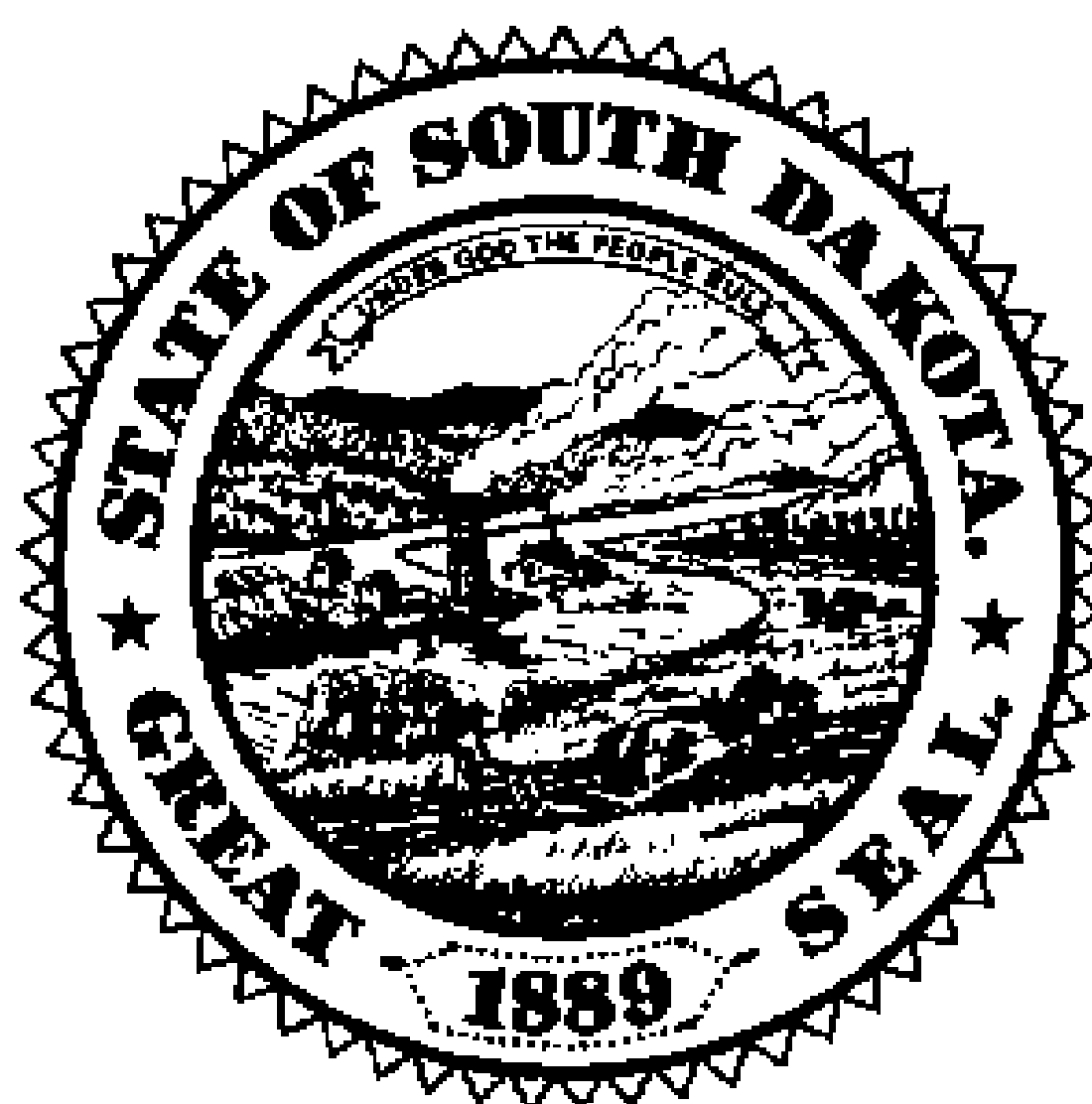
5:04:03:01 Notary public application and bond form.

5:04:03:02 Form for notary public notification of change of name and request to correct record.

5:04:03:03 Form for notary public notification of change of seal and request to correct record.

5:04:03:01. Notary public application and bond form. The application and bond form for a notary public is as follows:

(1) Front side:

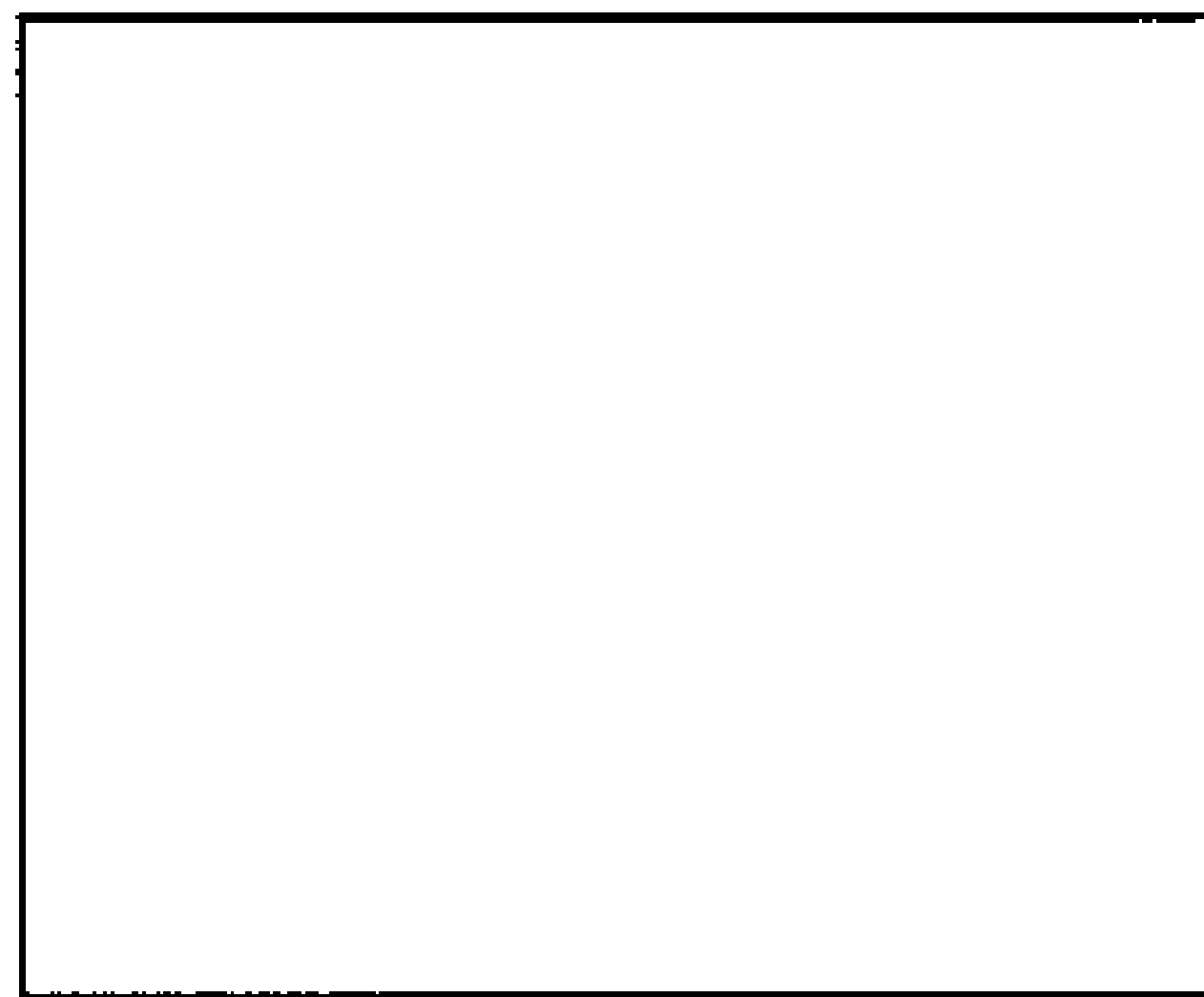


**State of South Dakota
Notary Public
Application, Oath & Bond**

Filing Fee: \$10.0025

MAKE IMPRINT OF SEAL HERE

Submit to: Secretary of State, 500 East Capitol Ave., Pierre, SD 57501



Type or print neatly - please read instructions.

TO THE SECRETARY OF STATE OF SOUTH DAKOTA: I hereby respectfully apply to be commissioned as a Notary Public for the State of South Dakota.

NAME _____
(enter your name exactly as found on your seal imprint)

ADDRESS _____

CITY _____ STATE _____ ZIP _____

COUNTY _____

Have you ever been a SD Notary Public? ____ Yes ____ No If yes, when did/does your commission expire? _____

Date of Birth _____ Have you ever been convicted of a felony? _____

STATE OF SOUTH DAKOTA
COUNTY OF _____

OATH

I, _____, being first duly sworn, depose and state that I am of legal age and a citizen of the United States. I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of South Dakota and that I will faithfully and impartially perform the duties of a NOTARY PUBLIC within and for the State of South Dakota according to the law and to the best of my ability, so help me God.

Dated _____

(Applicant's Signature)

BOND

(If a Personal Surety is being used, omit the following and complete the Personal Surety form on the backside.)

We, _____, as principal, and _____ are
(name of notary applicant) (name of surety company)

bound to the State of South Dakota in the penal sum of \$5000.00 for payment of which we bind ourselves, our successors, or representatives, executors, and administrators jointly and severally hereby. This obligation is conditioned upon appointment and commission as a Notary Public of the above-named Principal by the Secretary of State and covers the official term of six (6) years from the date of appointment. If the Principal performs well and faithfully all of the duties of the office of Notary Public according to the laws of South Dakota, then the above obligation is to be null and void, otherwise, it is to remain in effect.

Approved by the South Dakota Attorney General.

Dated this _____ day of _____

(Applicant's Signature)

(Surety's Signature)

File Date: _____

Commission date: _____

Receipt number: _____

Countersigned by:

A South Dakota Resident Agent

(2) Reverse side:

Personal Surety Form

Know all by these presents: That we, _____ (Notary applicant's name), of the County of _____ and the State of South Dakota, as principal, and _____ (Personal Surety's name), County of _____ (Address), State of South Dakota, as surety, are individually held firmly bound unto the State of South Dakota in the penal sum of five thousand dollars, for the payment of which we hereby jointly and severally bind ourselves, our heirs, executors, administrators and successors. Further, each of us deposes and says individually that we are worth \$5000, the amount of the bond, over and above our debts and liabilities, in unencumbered property, exclusive of property exempt from execution and forced sale under the laws of this state.

The conditions of this obligation are such that, if the above principal, _____, who has or will be appointed Notary Public in the State of South Dakota, shall faithfully execute the duties of the office according to law, then this obligation shall be null and void, otherwise to remain in full force and effect.

Dated this _____ day of _____

Applicant's Signature

Subscribed and sworn to before me this _____ day of _____

(SEAL)

Notary Public
My commission expires: _____

Dated this _____ day of _____

Personal Surety's Signature

Subscribed and sworn to before me this _____ day of _____

(SEAL)

Notary Public
My commission expires: _____

A personal surety is liable for the bond for the six-year commission of the notary. A personal surety cannot have the personal surety's name removed from the bond for any reason.

Source: 24 SDR 11, effective August 6, 1997; 28 SDR 54, effective October 22, 2001.

General Authority: SDCL 18-1-1.

Law Implemented: SDCL 18-1-1, 18-1-3, 58-6-62.

5:04:03:02. Form for notary public notification of change of name and request to correct record. The form for Notary Public Notification of Change of Name and Request to Correct Record is as follows:

**Notary Public Notification of
Change of Name and Request to Correct Record**

Please complete this form in its entirety. Print Legibly.

Previous name _____
(as notary public commission issued)

Date commission issued _____

Date of name change _____

Changed by - check one- () court order or () marriage

New Name _____
(as appears on new notary seal and to correct record)

Present mailing address _____
(mailing address)

(city, state and zip code)

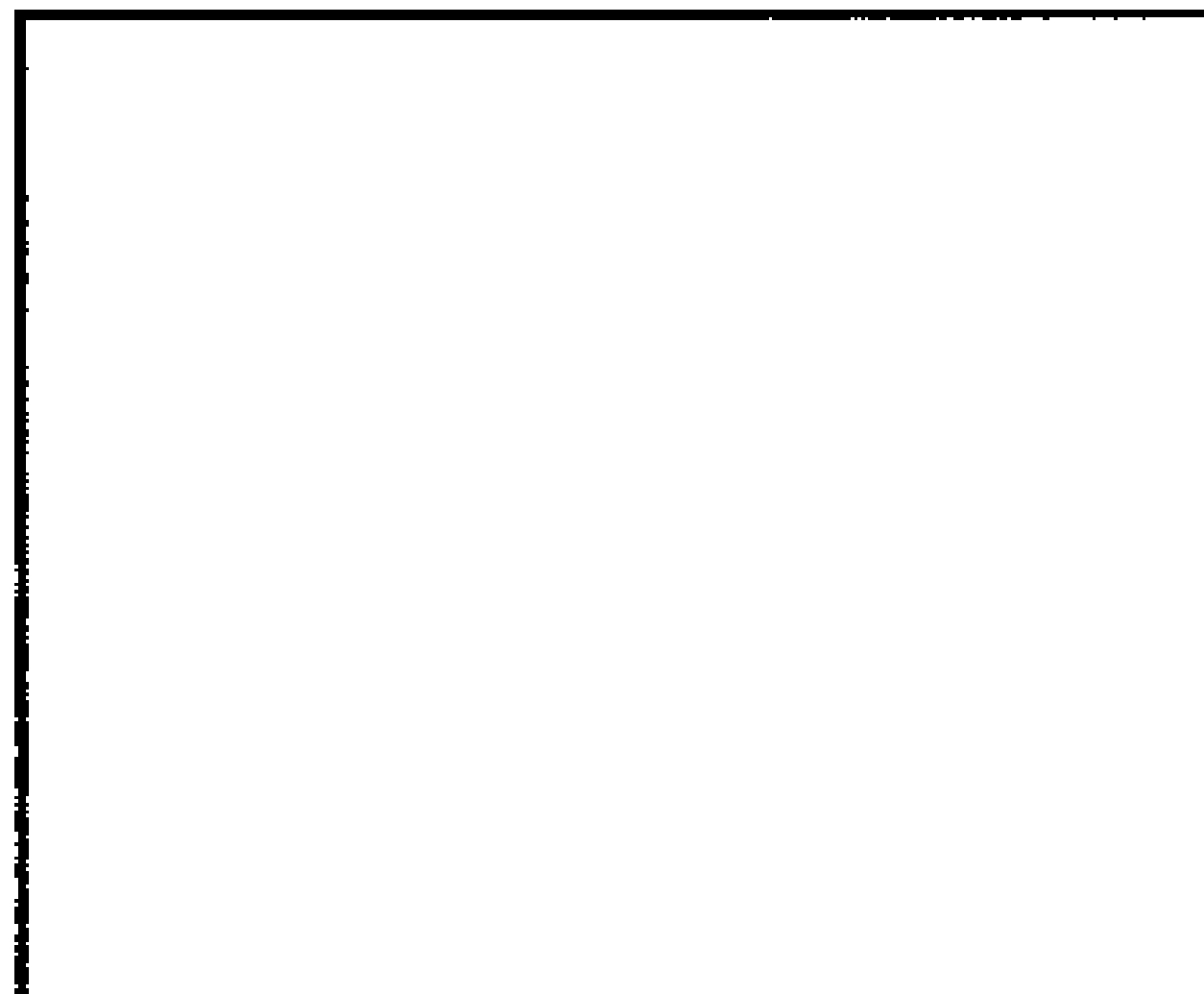
(county)

I hereby submit this notification of change of name and request that each record in the Office of the Secretary of State pertaining to my appointment and commission as notary public be corrected.

(Signature)

(Date)

Imprint of new seal here



Return to: ~~Joyce Hazletine~~
Secretary of State
Notary Division
500 E. Capitol Ave.
Pierre, SD 57501-5077
(605) 773-~~5666~~3537

Source: 28 SDR 54, effective October 22, 2001.

General Authority: SDCL 18-1-1.

Law Implemented: SDCL 18-1-1, 18-1-3.

5:04:03:03. Form for notary public notification of change of seal and request to correct record. The form for Notary Public Notification of Change of Seal and Request to Correct Record is as follows:

Notary Public Notification of Change of Seal and Request to Correct Record

Select only one box:

☐ I would like to add this seal imprint on record, and I will continue to maintain the use of both notary seals. I am aware, when I renew my commission I will have to place an imprint of both notarial seals on the application.

☐ I would like to discontinue the use of my current notarial seal on file and use the imprint of the notarial seal imprinted on this document.

Name as it appears on your commission: _____

Date of commission expiration: _____

Seal Impression(s)

Mailing Address: _____

County: _____

I hereby state that the above information is true and correct. I understand that I will not be able to use the notarial seal imprint until I am notified by the Secretary of State.

(Signature)

(Date)

Return to:
Secretary of State
Notary Division
500 E. Capitol
Pierre, SD 57501
(605)773-3537

General Authority: SDCL 18-1-1.

Law Implemented: SDCL 18-1-1, 18-1-3.

CHAPTER 5:04:06

STATEWIDE VOTER REGISTRATION FILE

Section

<u>5:04:06:01</u>	File export format.
<u>5:04:06:02</u>	File standardization.
<u>5:04:06:03</u>	County voter file export.
<u>5:04:06:04</u>	Duplicate voter registration check.
<u>5:04:06:05</u>	Potential duplicate voter registration check.
<u>5:04:06:06</u>	Voter registration list request form.
<u>5:04:06:07</u>	Charges for information from the statewide voter registration file.

5:04:06:01. File export format.

The file format which a county voter registration system must produce for export to the statewide voter registration system is:

Voter Registration

Field Name	Format	Required	<i>Field Description</i>
Transaction Code	A1	Y	Add (A), Update (U), Delete (D), County Auditor (C), Bypass (B)
Voter ID # (created for this system - 2 digit county code followed by 7 digits)	A9	Y	
Voter Status (Active-inactive)	A1	Y	Active (A), Inactive (I)
First Name	A15	Y	
Last Name	A23	Y	
Middle Name	A15		
Title	A6		Ex: Sister, Mr., Mrs, Miss, Ms, Rev, etc.
Suffix	A3		Jr, Sr, I, II, III, IV, V
Address	A40	Y	
City	A25	Y	
State	A2		
Zip	A10		If Zip+4, include hyphen.
Mailing Address	A35		
Mailing City	A20		
Mailing State	A2		
Mailing Zip	A10		If Zip+4, include hyphen.
Party	A3	Y	Democrat (DEM), Republican (REP), Independent (IND), Libertarian (LIB), Reform (REF), Other (OTH), etc <u>Constitution</u>

			(CON).
Precinct	A4	Y	
Senate District	A3	Y	
House District	A3	Y	1-35, 28A, 28B
Commissioner District	A2		
City/Township	A5	Y	
Ward code	A3		
School code	A4	Y	99-9
Special District 1	A4		
Special District 2	A4		
Special District 3	A4		
Special District 4	A4		
Special District 5	A4		
Telephone number	A12		999-999-9999
Date of Birth	A8		YYYYMMDD
SSN or license Number	A12 <u>5</u>	<u>Y</u>	
Original Registration Date	A8		YYYYMMDD
Registration Changed Date	A8		YYYYMMDD
Date Last Jury Service	A8		YYYYMMDD
Date county system updated	A8		YYYYMMDD
State of driver's license issuance	<u>A2</u>	<u>Y</u>	

Voter Election History Table

Field Name	Format	Required	<i>Field Description</i>
Voter ID # (created for this system - 2 digit county code followed by 7 digits)	A9	Y	
Election Date	A8	Y	YYYYMMDD
Election Type	A9		General, primary, Municipal, School, Township, Special, and Combined

Source: 28 SDR 54, effective October 22, 2001.

General Authority: SDCL 12-4-39(2)

Law Implemented: SDCL 12-4-39(2), 12-4-5.5

5:04:06:02 File standardization.

The data transmitted from a county voter registration system to the state voter registration file must be standardized as follows:

- (1) Each date must be in the YYYYMMDD date format;
- (2) No blank at the beginning of fields is permitted;
- (3) County number is the same as the county license plate number;

- (4) The first, middle, last name, title, and suffix may not contain any punctuation except for a hyphen (-) and single quote mark ('). Punctuation not allowed include periods (.), quotation marks ("), ampersand (&), and commas (,). Each name must be in a separate field;
- (5) Any seniority term such as Jr and Sr must be placed in the suffix field;
- (6) No address field may contain any punctuation;
- (7) Each phone number must contain hyphen or hyphens in the normal location;
- (8) No social security number and driver license number may contain any hyphens;
- (9) A school district must be listed by the official school district number such as "32-2";
- (10) The political party field must use a three character code. The valid political party codes are:
 - (a) DEM - Democrat;
 - (b) IND - Independent or "no party";
 - (c) LIB - Libertarian;
 - (d) OTH - Other parties;
 - (e) REF - Reform; or
 - (f) REP - Republican; or
 - (g) CON - Constitution
- (12) In the voter history, the allowed election types are general, primary, municipal, school, township, special, and combined. If an election falls into several of these types, deference must be given to general and primary;
- (13) The voter registration file must be a total of ~~328~~ 333 bytes. The voter history file must be 27 bytes. Each record that does not meet these length requirements may not be processed and must be returned to the county. Each file must be of fixed length and the fields must be left justified; and
- (14) A transaction code must be included. The codes are A-add, U-update, C-county auditor change, B-bypass and D-delete.
- (15) A "state of issuance" code must be included. These codes are NN-for no number, SN-for a social security number or the last four digits of a social security number, and SD or other appropriate two digit state abbreviation for the state of driver license issuance when a driver license number is provided.

Source: 28 SDR 54, effective October 22, 2001.

General Authority: SDCL 12-4-39(2)

Law Implemented: SDCL 12-4-39(2), 12-4-5.5

5:04:06:06 Voter registration list request form.

Any person requesting a printed voter registration list or file from the statewide voter registration system must complete a form which contains the following:

- (1) Type of report;
- (2) Selection criteria for the report;
- (3) Name and address of the requestor; and
- (4) Signature of the requestor below the statement, "In accordance with SDCL 12-4-41, I understand that the voter registration data obtained from the statewide voter registration database may not be used or sold for any commercial purpose and may not be placed for unrestricted access on the internet."

Source: 28 SDR 54, effective October 22, 2001.

General Authority: SDCL 12-4-39(4)

Law Implemented: SDCL 12-4-39(4)